

### **REMARKS/ARGUMENTS**

This paper is submitted in response to the Office Action mailed February 17, 2006. At that time, claims 1-41 were pending in the application. In the Office Action, the Examiner indicated that claims 5, 18, and 26 contained allowable subject matter. However, the Examiner rejected 7-11, 19-23, 27-31, 36, 37, and 40-47 as being indefinite under 35 U.S.C. § 112, 2<sup>nd</sup> paragraph. Likewise, the Examiner rejected claims 1-4, 6, 12, 14-17, 24, 25, 32, 33, and 38 as being anticipated under 35 U.S.C. § 102 by U.S. Patent No. 5,121,941 issued to Mihm et. al (hereinafter "Mihm"). Claims 13, 34-35, and 39 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Mihm in view of U.S. Patent No. 6,299,204 issued to Keshavaraj ("Keshavaraj").

By this paper, the claims are being amended. Specifically, claims 1, 7, 14, 19, 24, 27, 32, 33, 40, and 42-44 have been amended and claim 41 has been cancelled. Favorable consideration is respectfully requested.

#### **I. Claims 7-11, 19-23, 27-31, 36, 37 and 40-47 are Rejected Under 35 U.S.C. § 112**

The Examiner rejected claims 7-11, 19-23, 27-31, 36-37, and 40-47 as being indefinite under 35 U.S.C. § 112, 2<sup>nd</sup> paragraph. The Examiner asserted that these claims were unclear "because the claim language defines the structure, *i.e.*, housing, barrier, and/or cushion, as individual parts however the specification discloses the structure as one piece." As a result of this paper, the relevant claims have been amended to address the concerns raised by the Examiner. Specifically, although parts such as the cushion, the housing, and/or the barrier in the claimed airbag module may be constructed from a single piece of fabric, there may be portions of this single piece of fabric that define each specific part. Support for this clarification is found in paragraphs [0033] through [0034] of the specification. Accordingly, the claim language has been amended to clarify this point. Based upon these amendments, Applicants submit that the present claims are sufficiently definite. Withdrawal of this rejection is respectfully requested.

## **II. Rejection of Claims 1-4, 6, 12, 14-17, 24, 25, 32 33, 38 Under 35 U.S.C. § 102(b)**

As noted above, the Examiner rejected the claims 1-4, 6, 12, 14-17, 24-25, 32-33, and 38 under § 102 as being anticipated by Mihm. Applicants respectfully traverse these rejections.

It is well settled that a “claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.”

MPEP § 2131 (*quoting Verdegaaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). “The identical invention must be shown in as complete detail as is contained in the . . . claim.” *Id.* (*quoting Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)). In addition, “the reference must be enabling and describe the applicant’s claimed invention sufficiently to have placed it in possession of a person of ordinary skill in the field of the invention.” *In re Paulsen*, 30 F.3d 1475, 1479, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

In the present case, independent claims 1, 14, 24, and 32 have all been amended to recite that the “housing is formed substantially of a fabric material.” Support for this limitation is found throughout the present specification including, for example, at paragraphs [0005] and [0029]. This claim language, however, is not taught by Mihm. Rather, to the extent that Mihm’s “wall section 32” constitutes the claimed “housing,” this structure is part of the reaction can 12 and is “a monolithic structure made of a suitable nonmetallic material such as vinyl-ester.” *See* Mihm, Col. 5, lines 61-64. Clearly, this “nonmetallic material such as vinyl-ester” material is not a fabric material within the meaning of the claims. In fact, in some embodiments of the present application, the fabric material that is used to construct the airbag is also used as the fabric material for the housing. *See* Specification ¶ [0033]. Accordingly, because Mihm does not teach or disclose all of the elements found in the language of the claims, this reference does not anticipate these claims under § 102. Withdrawal of this rejection is respectfully requested.

With respect to dependent claims 2-4, 6, 12, 15-17, 25, 33, and 38, these claims depend, either directly or indirectly, from one of the independent claims—e.g., from either claim 1, claim 14, claim 24, or claim 32. Accordingly, these dependent claims are similarly patentable for the same reasons discussed above with respect to the independent claims. Withdrawal of this rejection is respectfully requested.

**III. Claims 13, 34, 35 and 39 are Rejected Under 35 U.S.C. § 103(a)**

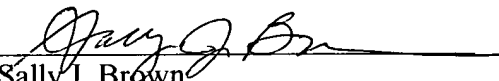
The Examiner rejected claims 13, 34-35, and 39 under § 103(a) as being unpatentable over Mihm in view of Keshavaraj. This rejection is respectfully traversed.

Claims 13, 34-35, and 39 are dependent claims that depend from either claim 1 or claim 32. As noted above, independent claims 1 and 32 are patentable over the prior art. It is well settled that if an independent claim is patentable, then all claims that depend from this patentable independent claim are likewise allowable. *See* MPEP § 2143. Accordingly, because independent claims 1 and 32 are patentable, then dependent claims 13, 34-35, and 39 are likewise allowable. Similarly, dependent claims 7-11, 19-23, 27-31, and 36-37 are likewise patentable as these claims depend from a patentable independent claim. Withdrawal of these rejections is respectfully requested.<sup>1</sup>

**IV. Conclusion**

Applicant respectfully requests that a timely Notice of Allowance be issued in this case. If there are any remaining issues preventing allowance of the pending claims that may be clarified by telephone, the Examiner is requested to call the undersigned.

Respectfully submitted,

  
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<sup>1</sup> Applicants note that the Examiner indicated that the claims rejected under § 112 “have not been treated on the merits because of the indefinite claim language.” As noted by the MPEP, this type of “piecemeal” examination should be avoided and that all issues should be raised—*i.e.*, both indefiniteness rejections and prior art based rejections—in the Office Action so that the Applicants have the opportunity to respond to all of the issues at once prior to receiving a “final” rejection. *See* MPEP § 707.07. As it presently stands, Applicants have not been given an opportunity to argue the merits of claims 7-11, 19-23, 27-31, 36-37, and 40-47. Accordingly, if the Examiner decides to issue any prior art based rejections for these claims in the next Office Action, Applicants believe that this new Office Action should not be made “final.” Rather, if there is a next action, it should be a “non-final” action so that Applicants will have two full chances to prosecute these claims on the merits.

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